

United States Senate
WASHINGTON, DC 20510

January 17, 2018

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

The Honorable Kirstjen M. Nielsen
Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Ave, NW
Washington, D.C. 20016

Dear Attorney General Sessions and Secretary Nielsen:

During a January 4, 2018 interview on Fox News, Immigration and Customs Enforcement (ICE) Acting Director Thomas Homan said he asked the United States Justice Department (DOJ) to “look into criminal charges for elected officials with sanctuary policies as they are harboring illegal aliens” under Section 1324 of Title 8 of the United States Code. This law makes it illegal for a person to knowingly conceal, harbor, or shield from detection an undocumented person in any place.

Acting Director Homan’s comment was specifically directed at California elected officials following the enactment of the *California Values Act* (CVA). The CVA limits the obligation of state and local governments to enforce federal immigration laws, but also grants discretion to assist federal law enforcement where felonies and serious misdemeanors are involved. In an oversight hearing before the Senate Judiciary Committee on January 16, 2018, Secretary Kirstjen Nielsen confirmed that “[t]he Department of Justice is reviewing what avenues might be available [to the Department of Homeland Security to charge elected officials such as these].”

We are not aware of any instance where duly elected state officials have been placed under threat of arrest and federal prosecution for acting in their official capacity pursuant to a validly-promulgated law by the state legislature. As Senators who sit on the Senate Judiciary Committee with oversight over both your agencies, we ask for the legal and factual bases for this request, and information about the consideration of this request.

Please provide answers to the following:


- ***Provide any written or verbal communications*** from the Department of Homeland Security or the White House requesting that the Department of Justice look into criminal

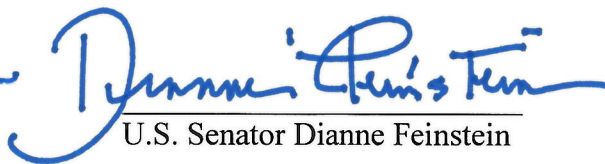
charges for elected officials that allegedly are harboring illegal aliens under 8 USC section 1324 or any other source of federal law.

- ***Provide any historical precedent or legal bases*** for federal officials to arrest and prosecute any state official operating in their official capacity pursuant to a law promulgated by a state legislature and signed by the governor.
- ***Identify any prior instance*** where a federal agency has sought a referral to the Department of Justice to arrest and prosecute any state official operating in their official capacity pursuant to a law promulgated by a state legislature and signed by the governor.

Please provide us with a response by February 1, 2018.

Sincerely,


U.S. Senator Kamala D. Harris


U.S. Senator Dianne Feinstein